

**RULES
OF
TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-6
TIME-SHARE PROGRAMS**

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1260-6-.01 DEFINITIONS. For purposes of this Chapter, unless the context otherwise requires, the definitions of terms contained in the Tennessee Time-Share Act of 1981, as amended (T.C.A., Title 66, Chapter 32), shall be applicable.

Authority: T.C.A. §§66-32-121 and 66-32-102. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.02 RECEIPT OF PUBLIC OFFERING STATEMENT. Before transfer of a time-share interval and no later than the date of any sales contract, the developer shall obtain from the purchaser a signed and dated receipt for the public offering statement (and any amendments and supplements thereto) provided in accordance with T.C.A. §66-32-112. The receipt shall specify the number of pages in the public offering statement as filed with the Commission. The developer shall retain such receipt for a period of four (4) years from the date thereof.

Authority: T.C.A. §§66-32-112 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.03 ESCROW FUNDS.

- (1) Where a developer is required by T.C.A. §66-32-113 to pay funds received from a buyer towards the sales price of a time-share estate into an escrow account held in this state by an independent bonded escrow company or insured financial institution, the escrow agent shall not be:
 - (a) The developer;
 - (b) An employer or employee of the developer;
 - (c) A project broker or sales agent for any time-share property of the developer; or
 - (d) Any person who otherwise controls, is controlled by or is under common control with a developer.
- (2) Where a developer is permitted by T.C.A. §66-32-113 (d) to withdraw payments received from the buyer toward the sales price of a time-share estate prior to substantial completion, the developer may use such payments only to pay for construction costs of the improvements comprising the time-share project. For purposes of this rule, "construction costs" means expenses reasonably incurred in connection with the building, furnishing, and landscaping of the time-share project, including architectural, engineering, finance, and legal fees.

(Rule 1260-6-.03, continued)

- (3) Each escrow agent shall maintain, in accordance with generally accepted accounting principles, separate records for each time-share project containing the following information:
 - (a) Name of the owner of the time-share estate.
 - (b) Identification of time-share interval involved.
 - (c) Amount and date of deposit.
 - (d) Amount, date, and payee of each check drawn on the trust account.
- (4) The Commission or its authorized representatives may, at all reasonable hours, examine and copy such books, accounts, documents, or records as are relevant to a determination of whether a developer or escrow agent has complied with the provisions of T.C.A. §66-32-113 and this rule.

Authority: T.C.A. §§66-32-113 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.04 DISCLOSURE OF RESCISSION RIGHTS. The following statement shall appear in boldface and conspicuous type in:

- (1) Every public offering statement; and
- (2) Every contract for the sale of a timeshare interval, immediately above the space reserved for the signature of the purchaser.

“You May Cancel A Contract To Purchase A Time-Share Interval Within Ten (10) Days From The Date Of The Contract, Where You Have Made An On-Site Inspection Of The Time-share Project Before Signing The Contract, And, If You Have Not Made Such An Inspection, Within Fifteen (15) Days From The Date Of The Contract. If You Elect To Cancel, You May Do So By Hand Delivering Notice To The Seller Within The Designated Period, Or By Mailing Notice To The Seller (Or His Agent For Service Of Process) By Prepaid United States Mail Postmarked Anytime Within The Designated Period.”

Authority: T.C.A. §§66-32-112, 62-32-114 and 66-32-121. **Administrative History:** Original ruled filed April 17, 1985; effective May 17, 1985. Amendment filed September 6, 1985; effective October 6, 1985.

1260-6-.05 MATERIAL CHANGES.

- (1) A Developer shall not intentionally cause any material change in a time-share program as represented in the public offering statement without at least ten (10) days advance notice to the Commission. As long as a developer is engaged in the offering or disposition of time-share intervals respecting a time-share program, the developer shall notify the Commission of any material change within ten (10) days from the date on which the developer first knew of it.
- (2) For purposes of this rule, “material change” means a change in any information or document disclosed in or attached to a public offering statement which renders such information or document false or misleading. Without limiting the generality of the preceding sentence, a material change shall be deemed to occur whenever.
 - (a) The current or projected budget for the time-share intervals is revised.
 - (b) The scheduled commencement or completion of promised improvement in the time-share project is (or will be) delayed due to adverse financial conditions or other causes.

(Rule 1260-6-.05, continued)

- (3) Upon the occurrence of a material change, the Commission may, if it deems:
 - (a) Request that sales be voluntarily suspended by the developer pending a determination of the effect of the material change on the time-share program.
 - (b) Take action in accordance with T.C.A. §66-32-121.

Authority: T.C.A. §§66-32-116 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6.06 ACQUISITION AGENTS.

- (1) Each acquisition agent shall furnish on the form prescribed by the Commission the following information:
 - (a) Its principal office address and telephone number
 - (b) The name of its responsible managing employee
 - (c) The names and addresses of any affiliated individuals who will act as acquisition agents in its behalf.
 - (d) The time-share program(s) for which it is seeking prospective purchasers.
 - (e) The name and address of the developer of such time-share program(s).
- (2) The acquisition agent shall promptly report to the Commissioner any change in the information submitted under this rule.

Authority: T.C.A. §§66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6.07 SALES AGENTS.

- (1) Each sales agent shall furnish on the form prescribed by the Commission the following information:
 - (a) Its principal office address and telephone number.
 - (b) the name of its responsible managing employee.
 - (c) The names and addresses of any affiliated individuals who will act as sales agents in its behalf.
 - (d) The time-share program(s) that it is selling.
 - (e) The name and address of the developer of such time-share program(s).
- (2) The sales agent shall promptly report to the Commission any change in the information submitted under this rule.

Authority: T.C.A. §§66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.08 MANAGING AGENTS.

- (1) Each managing agent shall furnish on the form prescribed by the Commission the following information:
 - (a) Its principal office address and telephone number.
 - (b) The name of its responsible managing employee.
 - (c) The time-share program(s) that it is managing.
 - (d) The name and address of the developer of such time-share program(s).
 - (e) The name and address of the financial institution in which the managing agent deposits funds collected from time-share interval owners for common expenses and maintenance repairs.
- (2) the managing agent shall promptly report to the Commission any change in the information submitted under this rule.

Authority: T.C.A. §§66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.09 EXCHANGE AGENTS. An exchange agent may disclose the information required by T.C.A. §66-32-122 (f), in any clear and understandable format. The exchange agent's statement shall be filed with the Commission on or before July 1 of each year.

Authority: T.C.A. §§66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.10 APPLICATION FOR REGISTRATION.

- (1) An application for registration of a time-share program shall be executed and notarized on the form prescribed by the Commission. In addition to the information required by T.C.A. §66-32-123(a), the application shall include:
 - (a) Copies of the forms of sales contract, deed, and all other written materials to be use in the normal course of the sale of time-share intervals.
 - (b) Evidence of compliance with the zoning laws of the local government in which the time-share project is located.
 - (c) The name and address of the sales agent to be employed by the developer for the sale of time-share intervals.
- (2) The developer of a time-share project not substantially completed shall also include with the application for registration:
 - (a) An estimate, certified by the developer and accompanied by the information or documentation upon which it is based, of the cost to complete the time-share project (as represented in the public offering statement).
 - (b) Sufficient evidence of financial capacity to cover such cost (e.g., financial statement; construction loan documents; etc.).
 - (c) A copy of any contract(s) executed for the construction of the project.

(Rule 1260-6-.10, continued)

- (d) A copy of the agreement under which escrow funds are held in accordance with T.C.A. §66-32-113; or, if alternate financial assurances are obtained as provided in that Section, copies, documents relating to such assurances.
 - (e) Such other materials that the Commission may require to determine that the time-share project will be substantially completed.
- (3) The developer of a time-share project which is subject to an underlying blanket lien or encumbrance shall also include with the application for registration copies of non-disturbance agreements, subordination agreements, lien releases, bonds, or other financial arrangements designed to protect non-defaulting purchasers in accordance with T.C.A. §66-32-128.

Authority: T.C.A. §§66-32-121 and 66-32-123. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.11 RENEWAL OF REGISTRATION.

- (1) All registration of time-share programs shall expire on December 31 of each year, and shall be invalid after that date unless renewed.
- (2) At least one (1) month in advance of the date of expiration of a registration, the Executive Director of the Commission shall notify the registrant by mail of the deadline and fee for renewal of the registration.
- (3) An application for renewal of registration must be filed on or before the expiration date of the registration. The application shall explain any changes in information or documents previously filed with the Commission; provided, however, that this paragraph shall not be construed to obviate with rule 1260-6-.05.
- (4) If an application for renewal of registration of a time-share program is not timely filed, the developer must submit a new application in order to reinstate the registration.

Authority: T.C.A. §§66-32-121 and 66-32-123. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.12 REGISTRATION FEES.

- (1) The following fees shall accompany applications submitted under the Time Share Act:
 - (a) For the registration of any timeshare program or vacation club, a fee of seven hundred fifty dollars (\$750.00);
 - (b) For the renewal of any time share program or vacation club, a fee of five hundred dollars (\$500.00);
 - (c) For a request for exemption from registration, a fee of two hundred fifty dollars (\$250.00);
- (2) The fees charged and collected under this rule shall not be prorated, and shall not be refundable.

Authority: T.C.A. §§66-32-121 and 66-32-123. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985. Amendment filed December 8, 1999; effective February 21, 2000.

1260-6-.13 REQUEST FOR EXEMPTION.

- (1) Any developer wishing to avoid registering a time-share program involving property located outside this state on the basis of T.C.A. §66-32-102(7) (the “no-offering” provision) shall submit a request for exemption to the Commission. The request shall be accompanied by:
 - (a) The public offering statement for the project; and
 - (b) A letter of certificate of registration from the jurisdiction in which the time-share property is located.

Authority: T.C.A. §§66-32-102 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-6-.14 RECORDS.

- (1) The developer shall maintain the following records for a period of at least four (4) years:
 - (a) The names, addresses, and dates of employment (and if applicable, termination) of all persons (including acquisition agents and sales agents) employed by the developer for time-share sales purposes in the State of Tennessee.
 - (b) Copies of sales contracts and documentation reflecting the disposition of all purchase money received thereunder.
 - (c) Copies of agreements entered into with managing agents for the management of the time-share program.
 - (d) Copies of agreements entered into with exchange agents for the affiliation of the time-share project with an exchange program.
- (2) All records required to be kept under this rule shall be made available to the Commission or its authorized representatives upon reasonable request.

Authority: T.C.A. §66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.